

**05-259 BURLINGTON NORTHERN SANTA FE RAILWAY CO. V. WHITE**

DECISION BELOW: 364 F.3d 789 (6th Cir. 2004)

LOWER COURT CASE NUMBER: 00-6780, 01-5024

QUESTIONS PRESENTED FOR REVIEW

1. Whether an employer may be held liable for retaliatory discrimination under Title VII for any "*materially adverse change* in the terms of employment" (including a temporary suspension rescinded by the employer with full back pay or an inconvenient reassignment, as the court below held); for any adverse treatment that was "reasonably likely to deter" the plaintiff from engaging in protected activity (as the Ninth Circuit holds); or only for an "*ultimate* employment decision" (as two other courts of appeals hold).
2. ~~Whether a plaintiff, whose evidence on liability is deemed sufficient by a court of appeals, is permitted a stand-alone retrial on punitive damages under a mere preponderance of the evidence standard, rather than a clear-and-convincing-evidence standard.~~

Cert. Granted 12/5/05 limited to Question 1 presented by the petition.